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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/632,545

08/01/2003

Michael F. Brletich

12539

2681

7590 08/01/2007
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EXAMINER

GARCIA, ERNESTO

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

08/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/632,545	Applicant(s) BRLETICH ET AL.	
	Examiner Ernesto Garcia	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-14 and 16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 11-14 and 16 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "so that the at least one retaining wall seats against and within the open end of the bar" recited in claim 1, line 7-8.

Claim Rejections - 35 USC § 102

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Antonucci et al., 6,119,306.

Regarding claim 1, Antonucci et al. disclose, in Fig. 35, a device comprising a fastener plug **13** including a plug portion **20'** and a fastener portion **24**. The plug portion **20'** defines an end cap **20'** and at least one disc **28** spaced apart from the end cap **20'**. The fastener portion **24** defines a flexible extension member **27** extending outwardly from the end cap **20'** and across the at least one disc **28**. The extension member **27**

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includes a projecting member **26'**. The end cap **20'** includes at least one retaining wall **A50** (see marked-up attachment) extending outwardly from an inner surface **A51** of the end cap **20'**.

Given the structure of Antonucci et al. above, the disc is sized and shaped to mate with and can seal an open end of a bar. The flexible extension member is able to flex as the member is installed in the open end of the bar and snap back to an original position when the projection member engages an aperture in a sidewall of the bar. Further, the disc defines a diameter slightly larger than a diameter of the open end of the bar, and the projection member can be adapted for operatively engaging the aperture in the sidewall of the bar. Further, the retaining wall can seat against and within the open end of the bar.

Regarding claim 2, the end cap **20'** defines a peripheral edge **B1** (see marked-up attachment) and a flat surface edge **B2** along the peripheral edge **B1**. Note, the claims are written with a broad breadth that Antonucci et al. reads on this claim. Applicants should consider rephrasing that the peripheral edge has a truncated edge or truncated surface.

Regarding claim 3, a rib **A1** connects the disc **28** to the end cap **20'**.

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Regarding claim 4, the disc **28** is a plurality of discs **28** spaced apart from the end cap **20'**.

Regarding claim 5, the extension member **27** extends upwardly from the end cap **20'**.

Regarding claim 6, the extension member **27** extends across the discs **28**.

Regarding claim 7, the discs **28** define a flat surface edge **A2**.

Regarding claim 8, the projection member **26'** defines an inclined surface **A3**.

Allowable Subject Matter

Claims 9 and 11-16 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 9, the prior art of record does not disclose or suggest a device comprising a fastener plug including an end cap defining a flat truncated surface along a peripheral edge (lines 10-11) in combination with a flexible extension member extending outwardly from the end cap across and spaced apart from at least one disc (lines 6-7).

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The closest prior art, Antonucci et al., 6,119,306, and Brugger et al., 6,003,556, do not teach the end cap being flat and truncated. Gieling et al. 5,144,780, Harley, 5,226,808, Ishikawa et al., 5,560,253, Rabinovitz, 5,788,347, and Sarafinas, 3,119,299, teach a flat truncated surface along a peripheral edge; however, there is no motivation to combine Antonucci et al. or Brugger et al. with Gieling et al., Harley, Ishikawa et al., Rabinovitz, and Sarafinas;

regarding claims 11-14, these claims directly or indirectly depend from claim 9;

regarding claim 16, the prior art of record does not disclose or suggest a device comprising an aperture-engaging member defining opposing columns joined together by a rib; there is no motivation absent applicant's own disclosure to modify the references because no one teaches the subject matter to facilitate insertion and removal of the aperture-engaging member within and out of an opening formed in a trashcan bar.

Response to Arguments

Applicants' arguments filed May 18, 2007 have been fully considered but they are not persuasive.

Applicants argue that the amendment overcomes Antonucci et al. since claim 1 has been amended to recite that the end cap includes at least one retaining wall extending outwardly from an inner surface of the end cap so that the at least one retaining wall seats against and within the open end of the bar. In response, the

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examiner has pointed out in the rejection how Antonucci et al. shows a retaining wall extending outwardly from an inner surface of the end cap. Further, it should be noted that there is no positive requirement that the retaining wall seats against and within the open end of the bar since the bar is not claimed in combination with the device. Note that the device is for securing the bar and thus the device is claimed by itself.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-

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7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EL

E.G.

July 25, 2007

Attachment: one marked-up page of Antonucci et al., 6,119,306

Daniel P Stodola

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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3800

FIG. 40